

ग्रसाबारण

EXTRAORDINARY

भाग 🎞 — सच्द 1

PART II-Section 1

प्राधिकार से प्रकालित

PUBLISHED BY AUTHORITY

सं • 56] नई दिल्ली, शनिवार, श्रगस्त 31, 1968/भावा 9, 1890 No. 56] NEW DELHI, SATURDAY, AUGUST 31, 1968/BHADHRA 9, 1890

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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 31st August, 1968/Bhadra 9, 1890 (Saka)

The following President's Act is published for general information:—

THE BIHAR UNIVERSITY (AMENDMENT) ACT, 1968 No. 24 of 1968

Enacted by the President in the Nineteenth Year of the Republic of India

An Act to amend the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960 and the Magadh University Act, 1961.

In exercise of the powers conferred by section 3 of the Bihar State 39 of 1968. Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

1. This Act may be called the Bihar Universities (Amendment) Shorttitle. Act, 1968.

Insertion of new section 48B in Bihar Act XIV of 1960

2. After section 48A of the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960, the following section shall be inserted, namely.

Power of colleges established and administered by minorities to make appointments, etc., of teachers. Amendment of

section 45

Act IV of 1962.

of Bihar

- "48B. Notwithstanding anything contained in sub-sections (6), (7), (8), (9), (10) and (11) of section 48A, the governing body of an affiliated college established by a minority based on religion or language may, with the approval of the University Service Commission and the Syndicate of the University,—
 - (i) appoint, dismiss or remove teachers, or
 - (ii) terminate the services of teachers or reduce them in rank or take other disciplinary measures against them.".
- 3. To section 45 of the Magadh University Act, 1961, the following proviso shall be added, namely:—

"Provided that the governing body of an affiliated college established by a minority based on religion or language may, with the approval of the University Service Commission and the Syndicate of the University,--

- (i) appoint, dismiss or remove teachers, or
- (ii) terminate the services of teachers or reduce them in rank or take other disciplinary measures against them.".

Repeal and saving

- 4. (1) The Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) and the Magadh University (Amendment) Ordi-Ordinance, 1968, is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action Bihar Act taken under the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960 or the Magadh University Act, 1961, as amended by the said Ordinance, shall be deemed to have been done or taken under either of the said Acts, as amended by this Act, as if this Act had commenced on the 16th day of July, 1968.

nance XV of 1968.

XIV of 1960. Bihar Act IV of 1962.

ZAKIR HUSAIN, President

V. N. BHATIA, Secy, to the Govt, of India

REASONS FOR THE ENACTMENT

Section 48A of the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Act, 1960, and section 45 of the Magadh University, 1961, provide that appointments, dismissals, etc., of teachers in the affiliated colleges shall be made or effected on the recommendation of the University Service Commission.

- 2. On the 1st March, 1962, the Governor of Bihar issued an Ordinance (Ordinance No. I of 1962, later converted as Bihar Act XIII of 1962) providing that all appointments of teachers made in the affiliated colleges after the 27th November, 1961 and before the 1st March, 1962 shall be subject to the orders of the Chancellor passed on the recommendations of the University Service Commission. pursuance of this Ordinance, all affiliated colleges in Bihar, including the St. Xavier's College, Ranchi were requested to give details of the appointments, dismissals, etc., of teachers in their colleges during the period mentioned in the Ordinance. The Principal St. Xavier's College took a stand that section 48A of the Act did not apply to his college because it was an institution run by religious minorities who have been guaranteed fundamental rights in the Constitution, of starting, maintaining and administering their own educational institutions. For the refusal on the part of the St. Xavier's College to furnish the details of appointments, dismissals, etc., during the said period, the Ranchi University decided to dis-affiliate the said college from the academic session 1969-70. Aggrieved by this decision the college authorities filed a writ petition before the Supreme Court of India. The Supreme Court held that section 48A of the Act affected the fundamental rights of religious minorities' institutions as contemplated under articles 29 and 30 of the Constitution, and directed the State Government to bring some amendment in section 48A of the Act to protect such fundamental rights of the minorities' institutions.
- 3. In pursuance of the direction of the Supreme Court, the Governor of Bihar promulgated the Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) and the Magadh University (Amendment) Ordinance, 1968 (Bihar Ordinance XV of 1968) on the 16th July, 1968, to amend the Bihar State Universities (University of Bihar, Bhagalpur and Rachi) Act, 1960 and the Magadh University Act, 1961.
- 4. The proposed measure seeks to replace the Ordinance, referred to in paragraph 3:

5. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on Bihar legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

G. K. CHANDIRAMANI, Secy. to the Govt. of India, Ministry of Education.